

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RONALD A. RINEHART and U.S. POSTAL SERVICE,
POST OFFICE, Carbondale, Ill.

*Docket No. 96-1090; Submitted on the Record;
Issued January 28, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant, has met his burden of proof to establish employment-related disability beginning on January 20, 1994, due to a claimed recurrence of disability from his back injury a year earlier or to recent factors of his federal employment.

The Board finds that appellant, has not established his claim for employment-related disability beginning on January 20, 1994, due to a claimed recurrence of disability from his back injury a year earlier or to recent factors of his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act,¹ has the burden of establishing the essential elements of his or her claim, including the fact that the injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.² These are the essential elements of each and every claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³ Where an employee claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of the reliable and probative evidence that the recurrence of the disabling condition for which he seeks compensation is causally related to the accepted employment injury.⁴ In order to

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ The Office of Workers' Compensation Programs' regulations clarify that a traumatic injury refers to an injury caused by a specific event or incident or series of events or incidents occurring within a single workday or work shift whereas occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or shift; *see* 20 C.F.R. §§ 10.5(a)(15),(16).

⁴ *Lourdes Davila*, 45 ECAB 139 (1993); *Louise G. Malloy*, 45 ECAB 613 (1994); *Kevin J. McGrath*, 42 ECAB 109 (1992); *John E. Blount*, 30 ECAB 1374 (1974).

establish a claim for a traumatic injury, an occupational disease claim or a recurrence of total disability from a prior accepted employment-related injury, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.⁵ Rationalized medical evidence is evidence which explains the relationship of the condition to specific factors of employment, or to the prior accepted employment injury.⁶ The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of relationship of the diagnosed condition and the specific employment factors or employment injury.⁷

On January 25, 1994 appellant, a letter carrier, filed a notice of claim for a recurrence of total disability beginning January 20, 1994, which he attributed to a prior employment-related back injury on January 9, 1993. He noted an “extremely high” volume of mail on January 18, 1994 and stated that he worked more than 10 hours on that date, delivering mail in icy conditions with 6 to 8 inches of snow on the ground. Appellant stated that he woke up stiff on January 19, 1994, unable to move and that he obtained treatment on January 20, 1994 from Dr. Thomas Banton, a Board-certified orthopedic surgeon, who treated him the prior year. He later submitted a copy of Dr. Banton’s treatment notes, which show that he recommended approximately one month of physical therapy, after the prior employment injury on January 9, 1993 and following the reported “flare up” on January 20, 1994. Dr. Banton noted that he had not evaluated appellant since March 26, 1993, at which time he had released him from his care and that the treatment on January 20, 1994 was for “a flare up with his back because of the weather and doing a lot of work outside, etc.” Appellant also submitted a copy of the physical therapy reports from his most recent physical therapy. In a follow-up treatment note dated February 24, 1994, Dr. Banton reported an improved condition and recommended continued exercises at home.

Under claim number A10-419531, the Office had accepted appellant’s claim, for a lumbosacral strain, occurring on January 9, 1993 and paid medical benefits. Upon receipt of the notice of a claim for a recurrence of total disability, the Office advised appellant of the meaning of the term recurrence and found that since he cited no work factors of January 18, 1994, the Office would develop his current claim for disability on and after January 20, 1994, as a new traumatic injury claim. The Office assigned appellant’s claim for a new injury due to work on January 18, 1994 to claim number A10-436661. Appellant objected to the assignment of a new claim, maintaining that his back pain was a continuation of the old injury.

By decision dated November 1, 1994, the Office denied appellant’s claim for a new injury with resulting disability on January 20, 1994. At an oral hearing held April 26, 1995 appellant testified that since the January 9, 1993 employment injury he had been unable to perform voluntary overtime work. He also claimed that his current pain, was a result of prior

⁵ See *Kathryn Haggerty*, 45 ECAB 383 (1994); *Lucrecia M. Nielson*, 42 ECAB 583 (1991).

⁶ *Gary L. Fowler*, 45 ECAB 365 (1994); *Debra A. Kirk-Littleton*, 41 ECAB 703 (1990); *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (finding that a medical opinion not fortified by medical rationale is of little probative value).

⁷ *Id.*

employment-related injuries sustained in two separate incidents in 1979, when he crushed his right heel and a mail hook struck his back. By decision dated August 9, 1995, an Office hearing representative affirmed the November 1, 1994 decision.

In support of a request for reconsideration, appellant submitted a May 22, 1995 report from Dr. Banton, who noted that when he evaluated appellant on January 20, 1994, there was no evidence of a new injury and characterized appellant's condition at that time as a spontaneous recurrence of the original injury. Appellant also submitted a September 15, 1995 report from Dr. Barry Feinberg, a Board-certified anesthesiologist, who reviewed appellant's medical history and prior injuries and diagnosed degenerative joint disease of the lumbar spine and lumbar radiculopathy as well as a myofascial pain disorder.

By decision dated January 11, 1996, the Office denied appellant's claim for an employment-related back injury due to work factors of January 18, 1995, based on the medical evidence and found the accepted work incident on January 18, 1995 to be an intervening event which precluded appellant's claim for a spontaneous recurrence of total disability.

Appellant has submitted insufficient medical evidence, to establish an employment-related back condition causing disability on January 20, 1994. With respect to appellant's contention that his exacerbation of back pain is due to the prior employment injury, appellant's claim was accepted for a lumbosacral strain occurring on January 9, 1993. He was discharged from treatment on March 26, 1993 and there is no evidence of bridging symptoms for which he received treatment for a 10-month period. In addition, at the time of his January 20, 1994 treatment, he provided a history of over-exertion at work on January 18, 1994. The Board notes that in a recurrence of disability situation, generally no event other than the previous injury accounts for the disability.⁸ The recurrence is seen as a spontaneous return to disability, due to the original employment injury, with no intervening or contributing causes involved.⁹ While Dr. Banton diagnosed a flare-up due to the original injury, he did not relate the condition with medical rationale, to the prior employment injury, addressing the lack of treatment for 10 months or the work factors of January 18, 1994. Furthermore, the report by Dr. Feinberg, a Board-certified anesthesiologist, provided a review of appellant's former injuries, but did not relate the injuries to appellant's diagnosed condition of degenerative joint disease of the lumbar spine and lumbar radiculopathy, as well as a myofascial pain disorder. Neither Drs. Banton or Feinberg provide a history of the accepted work incident on January 18, 1994 and correlate this work incident to appellant's back condition. Accordingly, appellant has not met his burden of proof to establish a work-related back condition on and after January 20, 1994.

⁸ *William R. Lance*, 18 ECAB 422, 428 (1967).

⁹ *Stephen J. Perkins*, 40 ECAB 1193 (1989).

The decisions of the Office of Workers' Compensation Programs dated January 11, 1996 and August 9, 1995 are hereby affirmed.

Dated, Washington, D.C.
January 28, 1998

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member